

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LISA FIDLER, individually, as heir)	No. C-04-1404 SC
and mother of ANGELA DAVENPORT)	
RAMIREZ, Decedent, and RITO H.)	
RAMIREZ, as heir and father of)	ORDER DENYING
ANGELA DAVENPORT RAMIREZ, Decedent,)	DEFENDANTS' MOTION
)	<u>FOR SUMMARY JUDGMENT</u>
Plaintiffs,)	
)	
v.)	
)	
SAN MATEO COUNTY SHERIFF'S OFFICE,)	
et al.,)	
)	
Defendants.)	
_____)	

I. INTRODUCTION

Following the death of their daughter, Angela Davenport Ramirez ("Decedent"), Lisa Fidler and Rito H. Ramirez ("Plaintiffs") brought this action against the San Mateo County Sheriff's Office, Sheriff Don Horsley in his capacity as Sheriff, the San Mateo County Women's Correctional Facility, and county employees Lillian Johnson, Nomalee Tilman, Rosemary Taylor, Daren Schofield, and Mahesh Mohan Khilnani ("Defendants"). In the motion at hand, Defendants have moved for summary judgment. For the reasons stated below, the Court DENIES Defendants' motion.

II. BACKGROUND

Decedent was booked into the San Mateo Correctional Facility on March 6, 2003. Complaint at 4. On April 6, 2003, Decedent committed suicide, allegedly owing to severe psychological

1 withdrawal symptoms resulting from a lack of access to doctor-
2 prescribed medicine. Id. at 5-6. Plaintiffs allege that
3 Defendants knew of Decedent's medical needs but failed to
4 adequately respond. Id. at 7.

5 Plaintiffs claim that Defendants violated 42 U.S.C. § 1983
6 by denying Decedent medical assistance and by failing to monitor
7 Decedent's activities while in custody. Id. at 4-8. Defendants
8 have moved for summary judgment on Plaintiffs' claim under Section
9 1983. Defendants' Memorandum in Support of Motion for Summary
10 Judgment at 24 ("Defs.' Mem. ").

11 **III. LEGAL STANDARD**

12 Summary judgment is appropriate only "if the pleadings,
13 depositions, answers to interrogatories, and admissions on file,
14 together with the affidavits, if any, show that there is no
15 genuine issue as to any material fact." Celotex Corp. v. Catrett,
16 477 U.S. 317, 322 (1986). A genuine issue of fact exists when the
17 non-moving party produces evidence on which a reasonable trier of
18 fact could find in its favor viewing the record as a whole in
19 light of the evidentiary burden the law places on that party.
20 Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 252-256 (1986).

21 **IV. DISCUSSION**

22 Defendants make three contentions in their motion for summary
23 judgment. First, Defendants assert that they did not act with a
24 "sufficiently culpable state of mind" to amount to deliberate
25 indifference and therefore did not violate Section 1983 by
26 depriving Decedent of her Eighth Amendment and due process rights.
27 Defs.' Mem. at 13-18. Second, Defendants contend that qualified
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1 immunity protects the individual Defendants from liability for the
2 alleged violation of Decedent's civil rights. Id. at 18-22.
3 Finally, Defendants contend that the County of San Mateo is not
4 liable for the alleged civil rights violation because it had no
5 unconstitutional policy or custom that led to Decedent's death.
6 Id. at 22-24.

7 A. Deliberate Indifference

8 i. Eighth Amendment

9 "To establish an Eighth Amendment violation, a prisoner must
10 satisfy both the objective and subjective components of a two-part
11 test." Toguchi v. Chung, 391 F.3d 1051, 1057 (9th Cir. 2004)
12 (citation and internal quotation marks removed). First, "there
13 must be a demonstration that the prison official deprived the
14 prisoner of the minimal civilized measure of life's necessities."
15 Id. Second, the plaintiff "must demonstrate that the prison
16 official acted with deliberate indifference in doing so." Id.

17 It is deliberate indifference when a prison official "knows
18 of and disregards an excessive risk to inmate health and safety."
19 Id. (citation and quotation mark removed). "[T]he prison official
20 must not only be aware of the facts from which the inference could
21 be drawn that a substantial risk of serious harm exists, but that
22 person must also draw that inference." Id. (citation and
23 quotation marks removed). If a prison official "should have been
24 aware of the risk, but was not," then there has been no violation
25 of the Eighth Amendment "no matter how severe the risk." Id.
26 (citation and quotation marks removed).

27 It is a question of fact whether Defendants' knew of
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1 Decedent's allegedly fragile psychological state, or whether they
2 could infer from their knowledge Decedent's alleged condition that
3 that a substantial risk of serious harm existed. Whether
4 Defendants actually drew such an inference and failed to act
5 accordingly is also a question of fact.

6 Accordingly, the Court denies the motion for summary judgment
7 as to the Eighth Amendment claim.

8 ii. Due Process

9 The state's interference with a parent's "fundamental liberty
10 interest in the companionship and society of his or her child" is
11 "remediable under 42 U.S.C. § 1983." Toguchi, 391 F.3d at 1060
12 (citation and quotation marks removed).

13 As with the previous claim, whether Defendants' alleged acts
14 and omissions constitute state interference with Decedent's
15 liberty interest is a question of fact. Accordingly, the Court
16 denies the motion for summary judgment as to the due process
17 claim.

18 B. Qualified Immunity

19 The threshold question is whether the "facts alleged show the
20 officer's conduct violated a constitutional right." Saucier v.
21 Katz, 533 U.S. 194, 202 (2001).

22 The Court finds that it is unable to rule on this question
23 until the complicated factual issue of whether correctional
24 officers and medical staff has culpable states of mind are
25 resolved at trial.

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C. Liability of San Mateo County for the Alleged Civil Rights Violation

Defendants contend that the County of San Mateo cannot be held liable for the alleged civil rights violation because it has no unconstitutional custom or policy that led to the alleged violation. Defs.' Mem. at 22-23. Specifically, Defendants assert that their policies and procedures "have passed regulatory muster." Id. at 23. Decedent, Defendants contend, was properly admitted and treated according to their policies which afford inmates ample opportunity to express their needs and have them addressed. Id. Defendants also contend that Plaintiffs have not proven that Plaintiffs acted with a culpable state of mind. Id. at 22-24.

Plaintiffs contend that an unconstitutional policy existed and its implementation led to the violation of Decedent's rights. Specifically, Plaintiffs contend that "Defendant San Mateo maintained a policy or custom of deliberate indifference to the serious needs of Ms. Ramirez and their official custom or policy was the moving force behind a deprivation of Ms. Ramirez's rights." Plaintiffs' Memorandum in Opposition to Motion for Summary Judgment at 10 ("Pls.' Mem."). Plaintiffs contend that the correction officers "failed to comply with the required state regulations and accepted correctional practices" and thereby caused Decedent's death. Id. at 18.

The U.S. Supreme Court requires a "plaintiff seeking to impose liability on a municipality under § 1983 to identify a municipal "policy" or "custom" that caused the plaintiff's

injury." Board of County Commissioners of Bryan County, Oklahoma v. Brown, 520 U.S. 397, 404 (1994). A plaintiff must also demonstrate that the "municipal action was taken with the requisite degree of culpability." Id.

The Court finds that there is a dispute as to the material fact whether there was an unconstitutional policy or custom and whether the action was taken with the requisite degree of culpability. Accordingly, the Court denies the motion for summary judgment as to this claim.

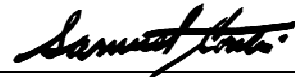
V. CONCLUSION

The Court finds that the questions of whether Defendants acted with deliberate indifference, whether Defendants are entitled to qualified immunity, and whether the County of San Mateo is liable for a constitutional violation cannot be decided on a motion for summary judgment because they involve disputes over material facts.

For the foregoing reasons, the Court DENIES in its entirety the motion for summary judgment.

IT IS SO ORDERED.

Dated: December 6, 2005



UNITED STATES DISTRICT JUDGE